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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,664	12/31/2003	Nicole L. Blankenbeckler	HT3825USNA	9736
23906	7590	09/27/2006	EXAMINER	
E I DU PONT DE NEMOURS AND COMPANY LEGAL PATENT RECORDS CENTER BARLEY MILL PLAZA 25/1128 4417 LANCASTER PIKE WILMINGTON, DE 19805			DICUS, TAMRA	
		ART UNIT	PAPER NUMBER	
		1774		

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/749,664	BLANKENBECKLER ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Tamra L. Dicus	1774

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 21 July 2006.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 16-19 and 24-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 16-19 and 24-34 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____  |

**Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :04-21-06, 12-01-04, 07-29-04, 06-14-04.**

**DETAILED ACTION**

The Examiner acknowledges cancellation of claims 1-15, and 20-23. Upon further consideration, the Election of Species between pizza and lasagna is hereby withdrawn and claims 19 and 31 will be treated on the merits with the rest of the claims examined below.

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 16, 24, and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claims 16 and 24 recite a first area in comparison to a first area (see last 3 sentences of claims 16 and 24), which is indefinite because if there is a comparison, there must be a difference, not referencing the same areas.

4. Further to claims 16, 24, and 29, a susceptor material is present in two distinct areas in lines 2-5 of claim 16 and lines 3-6 of claims 24 and 29, but another/same susceptor material is referenced later on as being completely covered. It is not clear if this later reference susceptor material is the same as the one present in the first and second areas or if it is additional and different material, if so, further comprising language should be used and the later susceptor material should be distinguished from the earlier mentioned one.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN Re. 34,683 to Maynard et al.

7. Maynard teaches a method of heating a food product comprising subjecting the food product to microwave energy where food is supported by susceptor materials (2:55-68, 3:1-20, Abstract, activating and inactivation chemical) present in two distinct areas, a first area (40, FIG. 3 and associated text) having a greater energy conversion and second area (42, FIG. 3, and associated text) having a lower energy conversion where line of demarcations are present as claimed (7:10-30, concentric pattern). The areas are on susceptor material (tray blank, 39, FIG. 3 and associated text). Food is on the susceptor material (88, FIG. 4 and associated text, pastry shell). The food is browned and crisped.

Claims 16-17 are met.

8. Claims 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN Re. 34,683 to Maynard et al. in view of USPN 6,559,431 to Hopkins.

9. Maynard teaches a method of heating a food product comprising subjecting the food product to microwave energy where food is supported by susceptor materials (2:55-68, 3:1-20,

Abstract, activating and inactivation chemical) present in two distinct areas, a first area (40, FIG. 3 and associated text) having a greater energy conversion and second area (42, FIG. 3, and associated text) having a lower energy conversion where line of demarcations are present as claimed (7:10-30, concentric pattern). The areas are on susceptor material (tray blank, 39, FIG. 3 and associated text). Food is on the susceptor material (88, FIG. 4 and associated text, pastry shell). The food is browned and crisped.

10. Maynard does not teach applying a wrapping on the food as claimed per instant claim 24.

11. Hopkins teaches a microwave tray where a tray and food thereon has a food grade film wrapping covering the tray and food therein that keeps the food in an air-tight container until the seal is manually removed by a consumer or hermetic seal is broken when the food in the assembly is cooked (4:27-43). *AS 9/21/06*

12. It would have been obvious to one having ordinary skill in the art to have modified the method of Maynard to include applying wrapping on the food provided by Hopkins as it serves to keep the food in an air-tight container for cooking when desired (4:27-43).

13. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over USPN Re. 34,683 to Maynard et al. in view of USPN 6,559,431 to Hopkins.

14. Maynard teaches a method of heating a food product comprising subjecting the food product to microwave energy where food is supported by susceptor materials (2:55-68, 3:1-20, Abstract, activating and inactivation chemical) present in two distinct areas, a first area (40, FIG. 3 and associated text) having a greater energy conversion and second area (42, FIG. 3, and associated text) having a lower energy conversion where line of demarcations are present as

Art Unit: 1774

claimed (7:10-30, concentric pattern). The areas are on susceptor material (tray blank, 39, FIG. 3 and associated text). Food is on the susceptor material (88, FIG. 4 and associated text, pastry shell). The food is browned and crisped.

15. Maynard does not teach applying a covering to surround the food product as claimed per instant claim 29.

16. Hopkins teaches a microwave tray where a tray and food thereon has a food grade film wrapping covering the tray and food therein that keeps the food in an air-tight container until the seal is manually removed by a consumer or hermetic seal is broken when the food in the assembly is cooked.

17. It would have been obvious to one having ordinary skill in the art to have modified the method of Maynard to include applying a covering surrounding the food provided by Hopkins as it serves to keep the food in an air-tight container for cooking when desired (4:27-43).

18. Claims 18-19, 27-28, and 30-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN Re. 34,683 to Maynard et al. alone or optionally further in view of Hopkins as applied above.

19. Maynard and the combination is relied upon above.

20. Maynard does not teach a food product of pizza or lasagna per instant claims 18-19, 27-28, and 30-34, while Maynard teaches browning and crisping the food is desired further teaching any variety of food products may be used (3:20). The overall purpose of the susceptor is to brown the food surface.

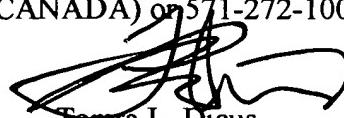
21. It would have been obvious to one having ordinary skill in the art to have modified Maynard or the combination to crisp food products including pizza and lasagna in order to brown a food surface.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamra L. Dicus whose telephone number is 571-272-1519. The examiner can normally be reached on Monday-Friday, 7:00-4:30 p.m., alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Tamra L. Dicus  
Examiner  
Art Unit 1774

September 21, 2006



RENA DYE  
SUPERVISORY PATENT EXAMINER  
A.U.1774 9/21/06